

From: McKenna, Douglas
Sent: Friday, May 29, 2015 1:49 PM
To: Hornsby, Melissa
Cc: Modigliani, Justine; McEathron, Kimberly
Subject: NJ Homebuilder Judicial Consent Decree

Melissa here is the press release for the case I mentioned yesterday

The Consent Decree can be accessed through the links in the press release.

Thanks Doug

New Jersey Developer to Pay Civil Penalty for Stormwater Violations and Preserve Wetlands

Garden Homes Will Pay \$225,000 Penalty and Preserve 108 Acres of Land in

New Jersey's Highlands Preservation Area

(New York, N.Y. – May 29, 2015) The Environmental Protection Agency and the Department of Justice today announced that they have reached an agreement with Garden Homes and its affiliated companies to settle their alleged failure to control stormwater discharges. These failures potentially resulted in pollutant discharges to the Passaic, Hackensack, Rahway, Raritan, Saddle and Delaware River watersheds. The agreement requires Garden Homes to pay a \$225,000 penalty and implement measures to improve the company's stormwater practices. In addition, the company has agreed to provide 108 acres of land for preservation within the Highlands Preservation Area in Morris County, New Jersey, protecting it from possible future development. This land contains approximately 23 acres of wetlands adjacent to the Berkshire Valley Wildlife Management Area and in the Highlands Preservation Area— a critical drinking water protection area for the state of New Jersey.

"Stormwater often carries pollution and sediment into local waterways that can damage water quality," said EPA Regional Administrator Judith A. Enck. "Large quantities of stormwater can run off of construction sites and it is critically important that stormwater be controlled. The EPA takes these violations seriously, and this legal settlement not only holds the company accountable, but also includes measures to preserve 108 acres of land that contains vital wetlands near a wildlife area."

"Today's settlement will help protect New Jersey waterways from the harmful pollutants contained in stormwater runoff from Garden Homes' construction sites, and also preserve valuable wetlands and wildlife habitat," said Assistant Attorney General John C. Cruden for the Justice Department's Environment and Natural Resources Division. One of the important parts of the settlement is the requirement that Garden Homes develop a corporate-wide stormwater management program which may stimulate better management practices throughout the construction business."

Under the federal Clean Water Act, developers and contractors responsible for operations at construction sites one acre or larger are required to implement stormwater pollution prevention plans to keep soil and contaminants from running off into nearby waterways. These plans can include measures such as the establishment of sediment barriers, the implementation of controls to hinder stormwater flowing onto the construction site and the protection of slopes. Water carries soil and contaminants off of construction sites at a rate typically 10 to 20 times greater than that from agricultural lands and 1,000 to 2,000 times greater than that from forested lands.

Under the settlement, Garden Homes will undertake a corporate-wide evaluation of its existing stormwater practices and develop a corporate-wide stormwater management program. In addition, Garden Homes will designate one of its employees as its company stormwater manager, who will be responsible for preparing all stormwater pollution prevention plans, developing and overseeing stormwater compliance training and conducting unannounced site inspections, among other responsibilities. The company will also designate individual site stormwater managers for its various sites. EPA estimates the value of these measures to be \$539,000 for the first year and approximately \$380,057 annually thereafter.

The complaint alleged that Garden Homes violated numerous stormwater requirements at ten of the company's sites in New Jersey by failing to conduct and document weekly inspections; failing to install perimeter silt fencing along the perimeter of construction sites; failing to maintain a spill kit on-site; and allowing fuel to spill on the ground uphill from an unprotected catch basin, among other allegations. The violations at issue in this case were found at multiple construction sites owned and/or operated by Garden Homes through their affiliates. These repetitive violations continued to persist despite two administrative penalty actions taken by the EPA against affiliates of Garden Homes.

Under the terms of the proposed settlement, Garden Homes will donate land within the Highlands Preservation Area as a supplemental environmental project. This donation of land will further aid in the recovery of threatened and endangered species, particularly the Indiana Bat and bog turtle, which have a known presence in the vicinity.

The proposed consent decree has been lodged in the U.S. District Court for the state of New Jersey and is subject to a 30-day public comment period and final court approval. A copy is available on the Department of Justice website at:

http://justice.gov/enrd/Consent_Decrees.html

For more information about requirements of the Clean Water Act and how EPA protects the nation's water, visit <http://water.epa.gov/>

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